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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,047	08/29/2003	Teruaki Itoh	160-389	8529
23117	7590	04/05/2005	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714				CHIN, PAUL T
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/651,047	ITOH, TERUAKI
	Examiner	Art Unit
	PAUL T. CHIN	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 January 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 5-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 5-10 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 August 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

1. Applicant's amendment filed January 5, 2005 and the arguments presented therewith have been carefully considered and they are persuasive. Therefore, the claim rejections have been withdrawn. However, Applicant's arguments with respect to claims 5-10 are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL.

Claim Objections

2. Claim 6 is objected to because of the following informalities: it appears on claim 6, line 2, that the word "tube" before "formed" should be changed to -- a tube -- or -- tubes --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited claimed language of the phrase "a bent elastic linear member" (claim 5, line 4) is vague and indefinite. The "linear member" can't be "linear" any more if it is being "bent". Moreover, the exact meaning of the recited phrase "each of said holding members is generally u-shaped in configuration with distal ends of legs thereof coupled to said open/closed driver" (claim 10) is not clearly understood, particularly the meaning of "distal ends of legs". It is pointed out that the claimed "legs" is never recited in the previous claim and it is confusing as to how "the distal ends of legs" being "coupled to

the open/closed driver". It is understood that only one end of each of the support sections (21a, 21b) are being coupled to the driver.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 5,7, and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Eckert (2,115,015).

Eckert (2,115,015) discloses a container gripping device (see Exhibit A), comprising vertical and narrower strips (11,11) and spring coils (14), which can be considered as an open/close driver, a pair of opposed holding members (8,8) (Figs. 1,2, and 4) being formed of a substantially bent member portion and a substantially linear member portion, the member being made of strong wire (lines 28-31 of page 1), which is a metal wire, each holding member having (i) a pair of support sections (upper section of member 8), one end being coupled to the driver (see Fig. 4), (ii) a pair of container contact sections (lower portion of the holding member 8) which are connected at one end to the support sections, extending along a lengthwise direction of the container and biased toward the container, and (iii) a coupling section (6,6) (Fig. 5) or strong wires which couples other ends of the container contact sections and are curved so as to surround the outer surface of the container with a gap there between (see Fig. 1).

Re claim 10, a u-shape holding member (8,8) is clearly shown in figure 3.

7. Claims 5 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lehr, Sr. (1,631,598).

Lehr, Sr. (1,631,598) discloses a container gripping device (see Exhibit B), comprising vertical and constraint members (1,2,8,9) and a spring (11), which can be considered as an open/close driver, a pair of opposed holding members (5,5) being formed of a substantially bent member portion and a substantially linear member portion, the member being made of a wire (lines 18-21 of page 1), each holding member having (i) a pair of parallel support sections (Fig. 2), one end being coupled to the driver, (ii) a pair of container contact sections (lower portion of the holding member 5) which are connected at one end to the support sections, extending along a lengthwise direction of the container and biased toward the container, and (iii) a coupling section (4,13) (Fig. 2) which couples other ends of the container contact sections and are curved so as to surround the outer surface of the container with a gap there between (see Fig. 1).

Re claim 10, a u-shape holding member (5,5) is clearly shown in figure 2.

8. Claims 5 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Zwerner (698,616).

Zwerner (698,616) discloses a container gripping device, comprising vertical and constraint member (2,3,7) and a spring wire assembly (5,6), which can be considered as an open/close driver, a pair of opposed holding members (1,1) being formed of a substantially bent member portion and a substantially linear member portion, the member being made of a wire (lines 18-21 of page 1), each holding member having (i) a pair of parallel support sections (1,1) (Fig. 1), one end being coupled to the driver, (ii) a pair of container contact sections (lower portion of the holding member 1) (Fig. 2) which

are connected at one end to the support sections, extending along a lengthwise direction of the container and biased toward the container, and (iii) a coupling section (4,4) (Fig. 1) which couples other ends of the container contact sections and are curved so as to surround the outer surface of the container with a gap there between (see Fig. 2).

Re claim 10, a u-shape holding member (1,1) is clearly shown in figure 1.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 9, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert (2,115,015) in view of Fox (2,889,797).

Eckert (2,115,015), as presented above, does not show that the wire of formed of bronze. However, Fox (2,889,797) discloses a shank and loop are being formed of a bronze (see lines 39-44 of Col 2). Accordingly, it would have been obvious design choice on the wire (8,8) of Eckert (2,115,015), to be made of bronze, as taught by Fox (2,889,797) to provide a softer material and to prevent from damaging the container.

11. Claims 6-9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehr, Sr. (1,631,598) in view of DaSilva et al. (6,435,582) (see PTO-892).

Re claims 6 and 8, Lehr, Sr. (1,631,598), as presented above, does not show a rubber tube to be fitted on the container contact sections. However, DaSilva et al. (6,435,582) discloses a rubber tube (28) (see Figs. 2A,2B, from Col 3, line 62, to Col 4, line 5) being fitted on a stainless steel wire (20) (lines 29-34 of Col 7). Accordingly, it would have

been an obvious to one of the ordinary skilled in the art at the time the invention was made to provide a rubber tube on the wire (lower portion) of Lehr, Sr. (1,631,598) as taught by DaSilva et al. (6,435,582) to prevent the container from damaging. Re claim 7, Lehr, Sr. (1,631,598) does not clearly show a metal wire, but DaSilva et al. (6,435,582) discloses a stainless steel wire (20) (lines 29-34 of Col 7). Accordingly, it would have been obvious design choice to provide the material selection (metal) on the wire Lehr, Sr.'s device(1,631,598) as taught by DaSilva et al. (6,435,582) to prevent corrosion.

Re claim 9, it would have been obvious design choice on the material selection (such as bronze material) on the Lehr, Sr.'s device (1,631,598) to provide flexibility to form a wire.

Response to Arguments

12. Applicant's arguments with respect to claims 5-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment (the addition of new limitations in claims 5,9, and 10) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTC

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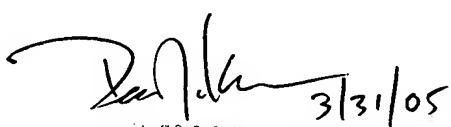

31/3/05
P.T. CHIN
USPTO-3652

Exhibit A

April 26, 1938.

B. ECKERT

2,115,015

JAR LIFTER

Filed Oct. 7, 1936

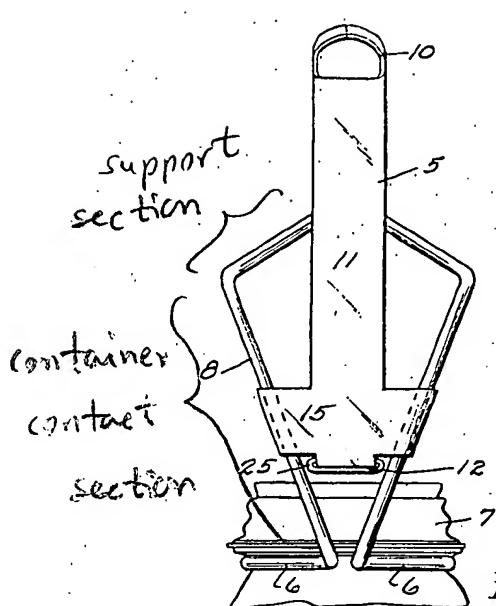


FIG. 1

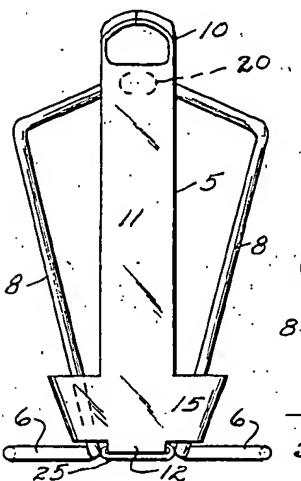


FIG. 2

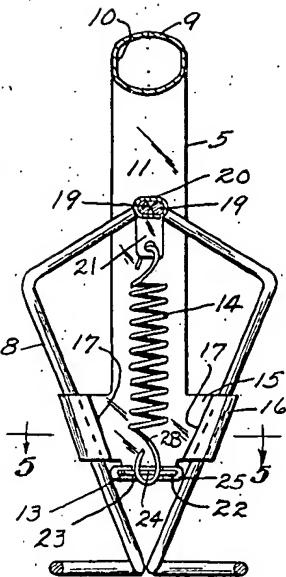


FIG. 4

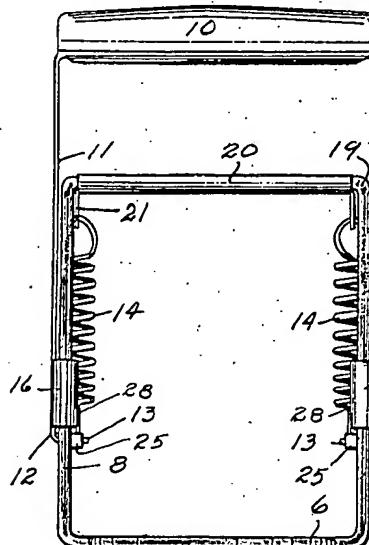


FIG. 3

U-shaped holding member
(8,8)

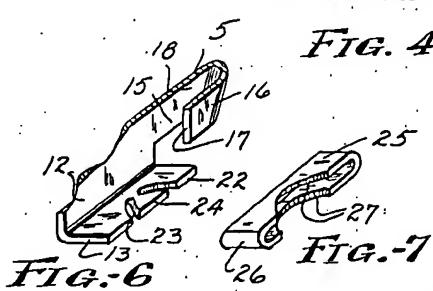


FIG. 6

coupling section

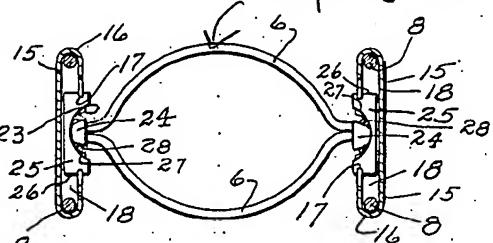


FIG. 5

INVENTOR.

BY DUELL, ECKERT
Frank D. Gray
ATTORNEY.

Exhibit B

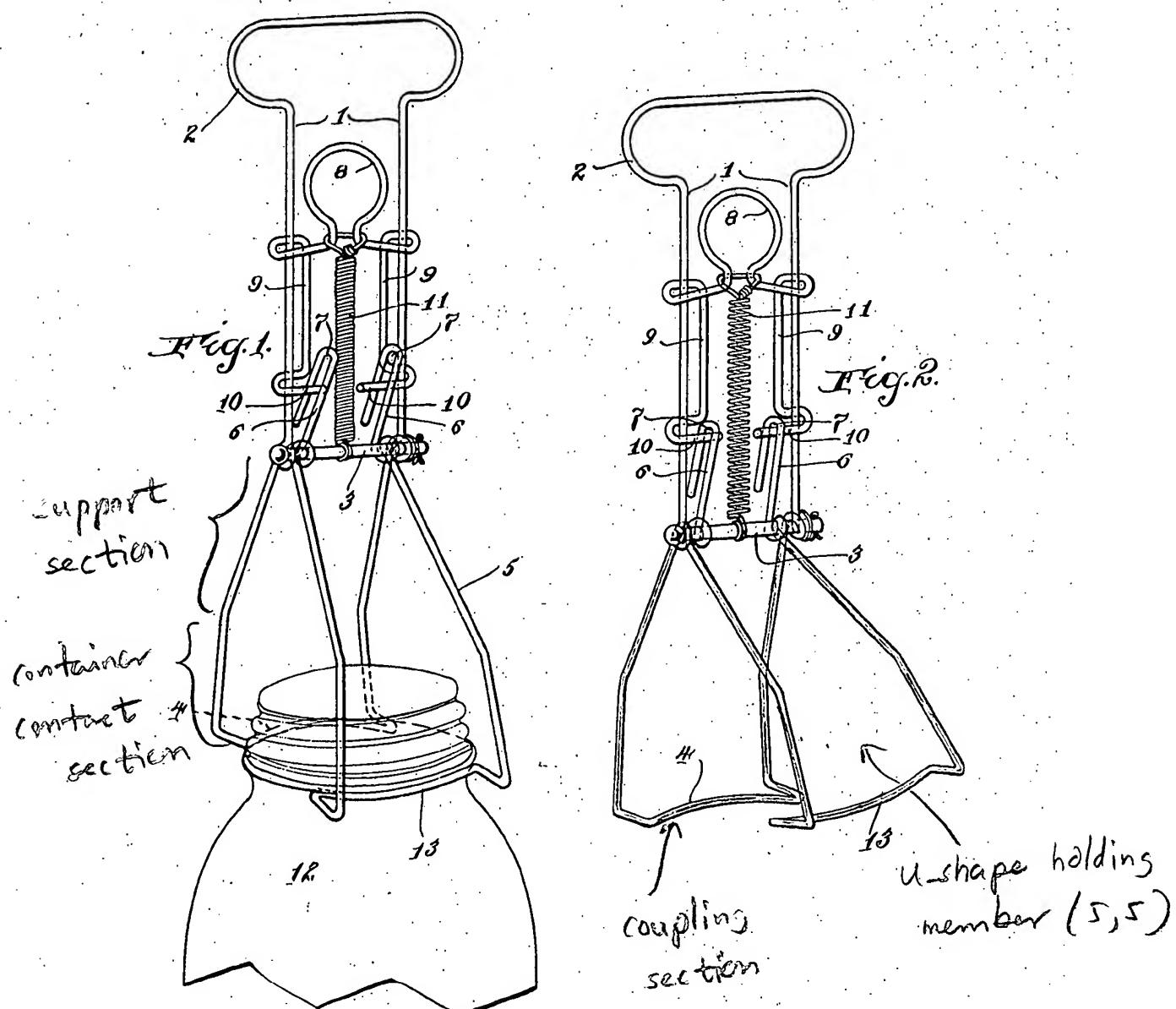
June 7, 1927.

J. F. LEHR, SR

1,631,598

JAR LIFTER

Filed Nov. 10, 1926



Inventor

John F. Lehr, Sr.

By Thomas W. Clark
Attorney